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UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

UNITED STATES OF AMERICA

3:20-cr-00294-IM

v.

**GOVERNMENT'S SENTENCING
MEMORANDUM**

JOSEPH JAMES YBARRA,

Defendant.

Introduction

Defendant was arrested for attempting to damage the Mark O. Hatfield United States Courthouse (hereinafter “Hatfield courthouse”) by means of fire. Following defendant’s arrest, he accepted responsibility by pleading guilty to the charge of Attempted Arson of a Federal Building. The United States of America submits the following memorandum recommending defendant be sentenced to the low end of the guideline range.

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I. FACTUAL BACKGROUND

A. The Offense Conduct

Beginning on May 26, 2020, there was significant civil unrest in the city of Portland, Oregon. Protesters gathered in the parks near the Hatfield courthouse and engaged in daily protests. At night, the protests routinely turned riotous and several buildings in the area, including the Hatfield courthouse, sustained significant damage.

On or about July 22, 2020, the western facade of the Hatfield courthouse was covered with wood panels to protect the interior, as several of the external glass panels and windows had been shattered after nearly 60 days of sustained vandalism and rioting. Just prior to this morning, rioters were successful in tearing away portions of the protective panels, leaving open a small access point to the interior of the courthouse. At about 3:15 a.m., defendant, being assisted by another person, is seen on the Hatfield security footage trying to ignite a suspected Molotov cocktail and throw it into the Hatfield courthouse through this gap in the protective panels. See images from the security footage below:

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Defendant twice tried to throw the suspected Molotov cocktail into the courthouse. The device failed to explode or otherwise cause damage to federal property. Defendant was arrested by members of the U.S. Marshals Service, minutes later.

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B. The Charge

On July 22, 2020, a criminal complaint was filed, charging defendant with one count of Attempted Arson of a Federal Building, in violation of 18 U.S.C. § 844(f)(1).

On August 4, 2020, a federal grand jury returned a one-count indictment, charging defendant with the same offense.

C. The Plea Agreement & Guideline Computations

On January 20, 2022, defendant pleaded guilty to the single count in the indictment pursuant to a plea agreement. (ECF No. 39)

The government recommends the following guideline computations:

Enhancement	Government's Position
Base Offense Level — USSG § 2K1.4(a)(2)	20 (not contested)
Acceptance of Responsibility — USSG § 3E1.1	-3 (not contested)
18 U.S.C. § 3553(a) —	-2 (not contested)
Government's Total Offense Level	15
Criminal History Category	I (Presentence Report ¶ 33)
Resulting Guideline Range	18-24 months

II. ARGUMENT

A. Contested Guideline Issues

The government is not aware of any contested guideline issues.

B. Government's Recommended Sentence

The government recommends a sentence at the low end of the advisory guideline range.

Defendant was not a leader or organizer of the rioting that occurred on July 21 into July 22, 2020. He appears to have been intoxicated and participated simply to engage in destructive behavior. He is the only one to be charged federally from the attempted arson at the courthouse that night. When interviewed by federal agents, defendant identified himself in the security footage and explained what he recalled about the events leading up to the riot and in the days after.

By defendant's own admission, he arrived in Portland from Seattle the prior afternoon. Defendant came to Portland to turn himself in on an indictment warrant for an Unlawful Use of a Vehicle charge, in Multnomah County. Due to the violent demonstration outside the Justice center, defendant was unable to turn himself in at the Justice Center. Defendant, already intoxicated, joined in with rioters in the area.

After being charged, defendant admitted his conduct and entered a guilty plea within a reasonable time without filing any motions. He remained in custody for about 19 months and, shortly after this change of plea, was released to reside at the Northwest Residential Re-entry Center, where he remains.

The government has considered information provided by the defense regarding defendant's addiction and mental health needs. The government's recommendation recognizes that defendant's needs in these areas must be adequately addressed to ensure the safety of the community.

III. CONCLUSION

Based on the foregoing, the government recommends that this Court impose a sentence at the low end of the advisory guideline range, followed by a three-year term of supervised release subject to the standard conditions and the eight special conditions noted in the sentence recommendation letter accompanying the Presentence Report.

Dated: April 12, 2022

Respectfully submitted,

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/s/ Parakram Singh
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